

1  
2  
3  
4  
5  
6  
7 MARCUS WILSON,  
8 Plaintiff,  
9 v.  
10 GREGORY J. AHERN,  
11 Defendant.

Case No. [21-cv-05341-SK](#)

**ORDER TO SHOW CAUSE**

12 Petitioner, a prisoner incarcerated at Santa Rita Jail, has filed a petition for a writ of habeas  
13 corpus under 28 U.S.C. § 2241 challenging a decision by the United States Department of Justice  
14 Federal Bureau of Prisons to remand Petitioner to Santa Rita Jail for alleged violations of his early  
15 release. The petition is properly before the undersigned for initial review because Petitioner has  
16 consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c).

17 **DISCUSSION**

18 **A. Legal Standard.**

19 This court may entertain a petition for a writ of habeas corpus in behalf of a person “in  
20 custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. §  
21 2241(c)(3). It shall “award the writ or issue an order directing the respondent to show cause why  
22 the writ should not be granted, unless it appears from the application that the applicant or person  
23 detained is not entitled thereto.” *Id.* § 2243.

24 **B. Petitioner’s Legal Claims.**

25 Petitioner seeks federal habeas corpus relief by asserting that his Fifth and Fourteenth  
26 Amendment right to due process was violated by the decision to remand him to Santa Rita Jail.  
27 Liberally construed, the claim appears potentially colorable and merits an answer from  
28 Respondents.

## CONCLUSION

For the foregoing reasons and for good cause shown:

1. The clerk shall serve electronically a copy of this order upon the respondent and the respondent's attorney, the United States Attorney for the Northern District of California, at the following email addresses: (1) [usacan.ecf@usdoj.gov](mailto:usacan.ecf@usdoj.gov); (2) [sara.winslow@usdoj.gov](mailto:sara.winslow@usdoj.gov); and (3) [kathy.terry@usdoj.gov](mailto:kathy.terry@usdoj.gov). The petition and the exhibits thereto are available via the Electronic Case Filing System for the Northern District of California.

2. Respondent shall file with the court and serve on petitioner, within 60 days of the issuance of this order, an answer responding to the allegations in the petition and showing cause why a writ of habeas corpus should not be granted. Respondent shall file with the answer and serve on petitioner a copy of all documents that are relevant to a determination of the issues presented by the petition.

3. If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the court and serving it on respondent within 30 days of her receipt of the answer.

## **IT IS SO ORDERED.**

Dated: September 8, 2021

Sallie Kim  
SALLIE KIM  
United States Magistrate Judge